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8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 MARVIN W. PEGUES, ) Case No. CV 10-01548-VBF-JPR  
11 )  
12 Petitioner, )  
13 v. ) ORDER ACCEPTING FINDINGS AND  
14 J. SOTO, Warden, ) RECOMMENDATIONS OF U.S.  
15 Respondent. ) MAGISTRATE JUDGE  
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17 The Court has reviewed the First Amended Petition, records  
18 on file, and Report and Recommendation of the U.S. Magistrate  
19 Judge. See 28 U.S.C. § 636. On January 22, 2015, Petitioner,  
20 through counsel, filed objections to the R&R, in which he mostly  
21 contends that the Magistrate Judge "overlooked" various things.  
22 In fact, the Magistrate Judge carefully considered each of those  
23 points in her 53-page R&R and simply rejected Petitioner's  
24 interpretation of or emphasis on them. For example, the  
25 Magistrate Judge considered and rejected Petitioner's claim  
26 (Objections at 7) that it would have been impossible for Gouche  
27 to have seen the occupants of the next car because he testified  
28 that he could not see out the tinted windows (R&R at 31.)

1 Indeed, as the Magistrate Judge pointed out, Gouche testified  
2 that he could not see out the rear window, not the rear side  
3 windows, and he also testified that at one point the other car  
4 was parallel to his (Lodged Doc 2, 6 Rep.'s Tr. at 1206-07),  
5 presumably allowing him to see the car's occupants through the  
6 rear side windows. Similarly, the Magistrate Judge did not  
7 "overlook" Petitioner's claim (Objections at 8-9) that the gang  
8 expert's testimony was not sufficient to prove the gang  
9 enhancement (see R&R at 33-35). Indeed, the Magistrate Judge  
10 addressed each of the points Petitioner raises in his Objections.

11 Having reviewed de novo those portions of the R&R to which  
12 objections were filed, the Court accepts the findings and  
13 recommendations of the Magistrate Judge. IT IS ORDERED that the  
14 First Amended Petition is denied without leave to amend and  
15 Judgment be entered dismissing this action with prejudice.

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18 DATED: February 25, 2015



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VALERIE BAKER FAIRBANK  
Senior United States District Judge